

**FOR THE UNITED STATES DISTRICT COURT FOR  
THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

**TERRY HARRIS,** )  
                          )  
                          )  
**Plaintiff,**       )  
                          )  
                          )  
**vs.**                   )   **CASE NO.: 2:05-CV-1083-WKW**  
                          )  
                          )  
                          )  
**JOSEPH BORG et al.** )  
                          )  
                          )  
**Defendants.**       )

**MOTION TO ENLARGE TIME**

**COMES NOW** the plaintiff and moves this court to enlarge the time for plaintiff to respond to defendants' Motion for Summary Judgement by seven (7) calendar days, up to and including June 27, 2007, and to extend the time for defendants' reply by seven (7) calendar days, up to and including July 5, 2007. As grounds for said Motion, plaintiff says as follows:

1. Plaintiff's failure to file a response by the deadline of June 20, 2007, was due to excusable neglect. This civil case grew out of the contention of Joseph Borg, as director of the Alabama Securities Commission, that Harris was acting as an unregistered stock advisor. In a concurrent criminal action, styled *State of Alabama* (Ex rel Alabama Securities Commission) vs. Terry Harris, pending in the Montgomery Circuit Court, plaintiff, herein, is the defendant.

2. The May 23, 2007, Summary Judgment Scheduling Order, herein gave the plaintiff until June 20, 2007 and defendant until June 27, 2007 to reply. One of the secretary's in the office of plaintiff's counsel, who was familiar with Harris' status as "defendant" in the criminal case, misunderstood the court's deadline that "defendant may, at his election, file a reply brief by June 27, 2007," and incorrectly docketed Harris' reply date to be June 27, 2007.
3. Harris has a meritorious defense to Borg's Motion for Summary Judgment.
4. This seven (7) day extension will not delay the case, nor prejudice either party.
5. Defendant requested and was granted permission to file a Motion for Summary Judgment more than seven months after the deadline to file such motion set out in the Uniform Scheduling Order (Document 21).
6. Defendant has refused to consent to this seven (7) day extension.
7. This is first extension requested by plaintiff.
8. Justice requires that plaintiff be allowed to respond to defendants' Motion for Summary Judgment.

/s/ Henry L. Penick

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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing has been e-filed this the 26<sup>th</sup> day of June, 2007, to the following:

Bruce Downey, III  
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/s/ Henry L. Penick